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Dan Kikinis

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EXAMINER

NGUYEN BA, HOANG VU A

ART UNIT

PAPER NUMBER

2421

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/854,334	<b>Applicant(s)</b> KIKINIS ET AL.	
	<b>Examiner</b> Hoang-Vu A. Nguyen-Ba	<b>Art Unit</b> 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-12, 14, 16, 18-25, 27-30 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-12, 14, 16, 18-25, 27-30 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. This action is responsive to Applicants' amendment filed December 8, 2009.
2. Claims 1-3, 5, 7-12, 14, 16, 18-25, 27-30 and 33-35 are pending. Claims 1, 12 and 23 are independent claims.

#### ***Response to Amendments***

3. Per Applicants' request, Claims 1, 8, 12 and 23 have been amended; and Claims 15 and 31 have been canceled.

#### ***Response to Arguments***

4. Applicants' arguments have been fully considered but are moot in view of the new grounds of rejection. While acknowledging that the features previously recited in Claims 15 and 31 were addressed in the previous Office action and are currently canceled and incorporated into independent claims 1, 12 and 23, the examiner respectfully notes that the incorporated features change the scope of Claims 2-3, 5, 7-11, 35; 14, 16, 18-22; and 24-25, 27-30 and 33-34, which were considered without the incorporated features in the previous Office action. Therefore, Applicants' amendments to the claims necessitate further consideration/search and new grounds of rejection.

#### ***Claim Rejections – 35 USC § 103***

5. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5, 7-8, 11-12, 14-16, 18-19, 22-25, 27-29 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2006/0288366 by

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Boylan, III et al. ("Boylan") in view of U.S. Patent No. 5,745,710 to Clanton, III et al. ("Clanton").

It should be noted that hereinafter the use of the clause "see at least" should be interpreted that the cited portions that follow the clause are not the only portions or descriptions of embodiments that are considered to be relevant. Should Applicant find that the cited portions are not relevant, other portions of the disclosure or descriptions of embodiments of the prior art reference will be provided as additional evidence and/or context to the relevancy of the previously cited portions. Since the evidence is from the same reference, the introduction of the additional evidence in response to Applicant's arguments should not therefore be considered to be that of new grounds of rejection.

### **Claim 1**

Boylan discloses *a system* (see at least FIG. 5, User TV Equipment 54), *comprising:*

*a memory* (see at least FIG. 5, STB 58 and [0038]) *storing a first object* (see at least [0038], e.g., application program stored on STB for providing interactive television programming guide), *a second object, the second object configured to define an interactive component for display in an interactive electronic programming guide (EPG), the interactive component including localized content* (see at least [0004], application program for provide non-programming products and services; [0007-0010], e.g., application program to providing local ads;) *and a third object corresponding to content information for display in the EPG* (see at least [0038], e.g., program listings information); *and*

*a processor* (see at least [0038], e.g., processor of the STB 58) *configured to generate the interactive EPG by combining the first object, the second object and the third object, wherein a layout of the interactive EPG is defined by the first object* (see at least FIGs. 13, 15 which shows different EPG layouts).

Boylan does not specifically disclose the remaining features of the claim.

However, in an analogous art, Clanton discloses:

*and wherein the first object is selected from a plurality of world objects and each of the plurality of world objects defines a different theme for an EPG layout* (see at least FIGs. 4-13).

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It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the features of Clanton in Boylan because the use of Clanton in Boylan would greatly enhance a user viewing experience.

**Claim 12**

Claim 12 is a method claim that corresponds to the system claim 1. Therefore, Claim 12 is rejected for the same reasons set forth in Claim 1.

**Claim 23**

Claim 12 is an apparatus claim (i.e., *a machine-readable storage medium tangibly embodying a sequence of instructions executable by a processor*) that corresponds to Claim 1. Therefore, Claim 23 is rejected for the same reasons as discussed in Claim 1.

**Claims 2, 14 and 24**

Rejections of base claims 1, 12 and 23, respectively are incorporated. Boylan-Clanton further discloses *wherein the system comprises a set-top box, a television, or a VCR* (Boylan; see at least FIG. 5, equipment 54).

**Claims 3 and 25**

Rejections of base claims 1 and 23, respectively are incorporated. Boylan-Clanton further discloses *wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information* (Boylan; see at least FIG. 5, since a driver is, by definition, a program that determines how a computer will communicate with a peripheral device, the set-top box has different drivers in order to communicate with the tuner(s), the memory – whether internal or external --, VCR, TV, etc.).

**Claim 4 (canceled)**

**Claim 15**

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The rejection of base claim 12 and 23 is incorporated. Boylan-Clanton further discloses *wherein the first object is selected from a plurality of world objects, each of the plurality of world objects configured to define a different EPG layout for displaying the content programming information* (Boylan; see at least [0038], e.g., the claimed *world objects* are interpreted to read on the various program listings – program listings for PPV programs in FIG. 4; program listings for a region in FIG. 15 and [0070-0072]).

### **Claims 5, 16 and 27**

Rejections of base claims 1, 12 & 23 and intervening claims 4; 13, 14 & 24, 26, respectively are incorporated. Boylan-Clanton further discloses *wherein the third object includes at least one of a schedule times, channel identification and a title* (Boylan; see at least [0037-0038]).

### **Claim 7**

The rejection of base claim 1 incorporated. Boylan-Clanton further discloses *wherein the second object is configured to provide non-EPG e-commerce interactivity* (Boylan; see at least FIGs. 13 and 15).

### **Claim 8**

The rejection of base claim 1 is incorporated. Boylan-Clanton further discloses *wherein the first object is selected from a plurality of world objects based on a selected type of programming, wherein each of the plurality of world objects defines a different EPG layout* (Boylan; see at least [0038], e.g., the claimed *world objects* are interpreted to read on the various program listings – program listings for PPV programs in FIG. 4; program listings for a region in FIG. 15 and [0070-0072]).

### **Claim 11**

The rejections of base claim 1 is incorporated. Boylan-Clanton further discloses *a user interface configured to receive user interaction with the localized content of the interactive EPG* (Boylan; see at least FIG. 15, e.g., user can highlight and click on the local advertisement).

**Claim 13 (canceled)**

**Claims 18 and 28**

Pursuant to Claim 18, the rejection of base claim 12 is incorporated.

Pursuant to Claim 28, the rejection of base claim 23 is incorporated.

Boylan-Clanton further discloses *wherein the second object is a non-EPG e-commerce objects* (Boylan; see at least FIGs. 13 and 15).

**Claims 19 and 29**

Rejections of base claims 12 & 23 and intervening claims 13-18 & 24-28 are respectively incorporated. Boylan-Clanton further discloses *wherein the first object is selected from a plurality of world objects based on selected programming content* (Boylan; see at least [0038], e.g., the claimed *world objects* are interpreted to read on the various program listings – program listings for PPV programs in FIG. 4; program listings for a region in FIG. 15 and [0070-0072]).

**Claim 22**

The rejection of base claim 12 is incorporated. Boylan-Clanton further discloses *further comprising generating a user interface coupled to the EPG and configured to receive user interaction with the localized interactive component* (Boylan; see at least FIG. 15, e.g., user can highlight and click on the local advertisement).

**Claim 26 (canceled)**

**Claim 35**

The rejection of base claim 1 is incorporated. Boylan-Clanton further discloses *wherein the interactive component is based on the content information displayed in the EPG* (Boylan; see at least [0081]).

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***Claim Rejections – 35 USC § 103***

7. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9-10, 20-21, 30 and 33-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Boylan in view of Clanton, as applied to the corresponding base and intervening claims, and further in view of U.S. Patent No. 6,754,906 to Finseth et al. (“Finseth”).

**Claim 9**

Rejections of base claim 1 and intervening claim 8 are incorporated. Boylan-Clanton does not specifically disclose *wherein the first object defines a virtual world and a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information.*

However, in an analogous art, Finseth does disclose a matrix of rectangular boxes containing program information (see at least FIG. 8A).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Finseth in Boylan-Clanton because the use of the feature would enhance the program listings information in Boylan-Clanton.

**Claim 10**

The rejections of base claim 1 and intervening claim 7 are incorporated. Boylan-Clanton does not specifically disclose *wherein the second object is received in real time.*

However, in an analogous art, Finseth discloses an electronic catalog (see at least 20:27-29), which is deemed to be updated in real-time in order to reflect the inventory of items in stock so that when a user searches the electronic catalog for an purchasing item and /or places an order, the item(s) is/are available or shown to be available in the near future.



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It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Finseth in Boylan-Clanton because the use of Finseth's real-time operating capability in Boylan-Clanton would help the e-commerce to be more efficient and thus increasing the company sales.

#### **Claim 20**

The rejection of base claim 12 is incorporated. Boylan-Clanton does not specifically disclose *wherein the first object defines a virtual world and wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information.*

However, in an analogous art, Finseth does disclose a matrix of rectangular boxes containing program information (see at least FIG. 8A).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Finseth in Boylan-Clanton because the use of this feature would enhance the program listings information in Boylan-Clanton.

#### **Claim 30**

The rejection of base claim 23 and intervening claims 24, 26-29 are incorporated. Boylan does not specifically disclose *wherein the first object defines a virtual world and wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information.*

However, in an analogous art, Finseth does disclose a matrix of rectangular boxes containing program information (see at least FIG. 8A).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Finseth in Boylan-Clanton because the use of the feature would enhance the program listings information in Boylan-Clanton.

#### **Claim 31**

Rejections of base claim 23 and intervening claims 24, 26-30 are incorporated. Boylan-Clanton-Finseth further discloses *wherein the first object is user-selected from a plurality of world objects, each of the plurality of world objects defining a different layout for displaying*

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*the programming information* (Boylan; see at least [0038], e.g., the claimed *world objects* are interpreted to read on the various program listings – program listings for PPV programs in FIG. 4; program listings for a region in FIG. 15 and [0070-0072]).

### **Claims 21 and 33**

Pursuant to Claim 21, rejections of base claim 12 and intervening claim 18 are incorporated.

Pursuant to Claim 33, the rejection of base claim 23 is incorporated.

Boylan-Clanton does not specifically disclose *receiving the second object in real time*.

However, in an analogous art, Finseth discloses an electronic catalog (see at least 20:27-29), which is deemed to be updated in real-time in order to reflect the inventory of items in stock so that when a user searches the electronic catalog for an purchasing item and /or places an order, the item(s) is/are available or shown to be available in the near future.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Finseth in Boylan-Clanton because the use of Finseth's real-time operating capability in Boylan-Clanton would help the e-commerce to be more efficient and thus increasing the company sales.

### **Claim 34**

The rejections of base claim 23 and intervening claim 33 are incorporated. Boylan-Clanton-Finseth further discloses *further comprising generating a user interface coupled to the EPG and configured to receive user interaction with the localized interactive component* (Boylan; see at least FIGs. 13, 15).

### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is

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(571) 272-3701. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2400 Group receptionist (571) 272-2400.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/

Primary Examiner, Art Unit 2421

February 15, 2010